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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,187	12/16/2004	Roger Rimmel	487,1097	5605
23280	7590	05/21/2010		
Davidson, Davidson & Kappel, LLC			EXAMINER	
485 7th Avenue			NGUYEN, CHI Q	
14th Floor				
New York, NY 10018			ART UNIT	PAPER NUMBER
			3635	
			MAIL DATE	DELIVERY MODE
			05/21/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/518,187

Applicant(s)

REMMELE ET AL.

Examiner

CHI Q. NGUYEN

Art Unit

3635

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-31, 33-36, 39, 40, 44, 45 and 47 is/are rejected.
- 7) ☒ Claim(s) 32, 37, 38, 41-43 and 46 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Upon further consideration, the previous finality is being withdrawn; with the new art and rejections are presented as following:

Status of Claims

Claims 1-23 have been cancelled.

Claims 24-46 and newly filed 47 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24-43 and 47 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding independent claims 24 and 34 the cited phrase "insertable between the fixing member" renders the claim indefinite and confusing because it is unclear that the "fixing member" is not positively and being claimed in combination with a stanchion ? Clarification is required. Claims 25-33, 35-43 and 46 depending upon the rejected claims 24, 34, 44 and 45 are also rejected.

Claim 33 recites the limitation "the auxiliary lever" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, claims 24-31, 33-36, 39-40, 44, 45 and 47 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 3,627,375 to Rosen.

Claims: 24, 34 and 47:

Rosen discloses in Figs. 1-3, a stanchion 3 for a tarpaulin structure which can be locked on a fixing member, the stanchion comprising: a stanchion part 2, a lever arrangement 6 configured to raise and lock the stanchion, a counterbearing 4 rigidly attached to the stanchion part 2, and a supporting element 6a insertable between the fixing member and the counterbearing 4, such that when the stanchion is locked, vertical forces are transmitted through the counterbearing and the supporting element into the fixing member and the tarpaulin structure is a sliding tarpaulin. Note, since the fixing member is not positively and being claimed thus this limitation would have been considered as intended use limitation.

Claim 25:

Wherein the supporting element 6a comprises a lower boundary, which is matched in a form-fitting manner to the fixing member, and an upper boundary, which is matched in a form-fitting manner to the counterbearing 4.

Claim 26:

Wherein the supporting element 6a is fixed on a part of the stanchion 3.

Claim 27:

Wherein the supporting element 6a is fixed on the fixing member (see above rejections).

Claim 28:

Wherein the supporting element 6a is a separate part to the stanchion 3 and fixing member (see above rejections).

Claims 29 and 35:

Wherein the supporting element 6a is disposed on the lever arrangement 6 and having a claw part (no labeled but where it connected from 6a to 6 in Fig. 3).

Claims 30-31:

Wherein the lever 6 arrangement includes a main lever (where 6 points to), on which the supporting element is fixed, and an intermediate lever (near 6a) that connects the main lever 3 and the body of the stanchion 3.

Claim 33:

Wherein the main lever 6 has a joint (near 6a) for the auxiliary lever a handle recess arranged above the joint.

Claim 36:

Wherein the stanchion 3 has a foot region 1 and a transverse web 5 in the foot region 1, and wherein, in a locked state of the stanchion, the transverse web extends behind a lug of the fixing member (see also above rejections).

Claim 39:

Wherein the couterbearing 4 upwardly bounds a cutout of the stanchion (see Fig. 3).

Claim 40:

Wherein the stanchion 3 is composed of an upper stanchion part 15 and a lower stanchion part 14 which grip in each other.

Claim 44:

Rosen discloses a stanchion arrangement 3 for a tarpaulin structure comprising a fixing member 2, a stanchion 3, for locking with and releasing from said fixing member, the stanchion comprising a counterbearing 4 that is rigidly attached to the stanchion 3; and a supporting element 5 insertable between the fixing member 2 and counterbearing 4 (Fig. 3).

Claim 45:

Rosen discloses a tarpaulin frame for a loading area built over by a tarpaulin structure, including longitudinal supports which run above edges of the loading area, wherein the longitudinal supports are supported against the loading area by at least one stanchion arrangement 3, said stanchion arrangement comprising: a fixing member 2; a stanchion 3, for locking with and releasing from said fixing member 2, the stanchion 3 having a foot region (no labeled but near by 4) and a counterbearing 4 that is rigidly attached to the stanchion 3; and a supporting element 5 insertable between the fixing member 2 and the counterbearing 4, wherein the fixing member 2 is secured in a region of the loading area and the stanchion is locked in the foot region on the fixing member and is supported against a corresponding longitudinal support by means of an upper supporting surface.

Allowable Subject Matter

Claims 32, 37-38, 41-43 and 46 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 24-47 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

/C. Q. N./
Examiner, Art Unit 3635

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635